

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

**IN RE:
BENJAMIN HARRISON WILES**

BANKRUPTCY NO. 23-01483-JAW

21st Mortgage Corporation

Movant

VS.

**Benjamin Harrison Wiles, Debtor and
Kimberly Renee Jenkins a/k/a Kimberly R. Jenkins
Harold J. Barkley, Jr., Trustee**

Respondents

**MOTION FOR RELIEF FROM STAY
AND CO-DEBTOR STAY AND FOR OTHER RELIEF**

COMES NOW, 21st Mortgage Corporation (hereinafter “21st Mortgage”) brings this Motion for Relief from Stay and Co-Debtor stay and for other relief as follows:

1. On or about June 29, 2023, Benjamin Harrison Wiles (“Debtor”) filed a petition for relief pursuant to Title 11 of the United States Code. This Court has jurisdiction over the parties and subject matter to this action pursuant to 28 U.S.C. §§ 157 and 1334 and 11 U.S.C. §§ 554, 362 and 1301. This is a core proceeding pursuant to 28 U.S.C. § 157 (b) (2) (A), (G) and (O).
2. On August 13, 2021, Debtor executed a Consumer Loan Note, Security Agreement and Disclosure Agreement (“Agreement”) in the original principal amount of \$68,437.70. A true and correct copy of said Agreement is attached hereto and made a part hereof and marked Exhibit “A”.
3. 21st Mortgage is a secured creditor of Debtor and holds a valid, duly perfected security interest in Debtor's 2021 Hamilton. model no. 167232D manufactured home. Copies of documents supporting the debt and 21st Mortgage's security interest are attached to this motion.
4. To secure repayment of the indebtedness due, Debtors pledged to 21st Mortgage a first lien security interest in the subject real property situated in Yazoo County, Mississippi. On August 13, 2021, Debtors executed a Deed of Trust which was recorded in Book 520B at Page 0571 in the land records of the Chancery Court of Yazoo County, Mississippi, true and correct copies of which are

attached hereto as Exhibit "B". 21st Mortgage is a secured creditor of Debtors and holds a valid, duly perfected security interest in certain real property of the Debtors as described in the Deed of Trust.

5. The loan is in default and 21st Mortgage is not receiving payments due under the Plan. The Debtor's plan has not been confirmed and is a direct pay. 21st Mortgage has not received adequate protection as required by 11 U.S.C. §§ 361, 362 and 363. Additionally, there is no equity in the property for the benefit of Debtors or the Estate.

6. 21st Mortgage's collateral is burdensome and of inconsequential value and benefit to the Estate.

7. Continuation of the co-debtor stay of 11 U.S.C. § 1301 will irreparably harm 21st Mortgage's interest.

WHEREFORE, PREMISES CONSIDERED, 21st Mortgage Corporation requests the Court terminate the automatic stay of 11 U.S.C. § 362 and the co-debtor stay of 11 U.S.C. § 1301 to allow 21st Mortgage to proceed to enforce its security interest and repossess and liquidate its collateral, to order abandonment 21st Mortgage's collateral pursuant to 11 U.S.C. § 554, and that the stay provisions of Rule 4001 of the Federal Rules of Bankruptcy Procedure not apply. In the alternative, the Court is requested to grant such other relief as is necessary under the circumstances.

DATED: September 7, 2023.

Respectfully submitted,

21st Mortgage Corporation

BY: 

Edward E. Lawler, Jr.
Its Attorney

Edward E. Lawler, Jr., MSB No. 1095
McKay Lawler Franklin & Foreman, PLLC
P.O. Box 2488
Ridgeland, MS 39158-2488
Telephone (601) 572-8778
Telefax (601) 572-8440
Email: elawler@mckaylawler.com

CERTIFICATE OF SERVICE

I certify that copies of the foregoing documents were served upon the following:

Thomas Carl Rollins, Jr.
The Rollins Law Firm, PLLC
Post Office Box 13767
Jackson, MS 39236

Benjamin Harrison Wiles
6404 US-49 N
Benton, MS 39040

Kimberly Renee Jenkins a/k/a Kimberly R. Jenkins
6404 US-49 N
Benton, MS 39040

Harold J. Barkley, Jr.
Chapter 13 Trustee
Post Office Box 4476
Jackson, MS 39296-4476

United States Trustee
501 East Court Street, Suite 6-430
Jackson, MS 39201

by United States mail, postage prepaid, or by electronic notice, on September 7, 2023.


Edward E. Lawler, Jr.

TFMTG-B1561